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SUBJECT: URANIUM ENRICHMENT SERVICES CRITERIA

REF: A. STATE 53230 B. BONN 4014 C. EC BRUSSELS 1740

SUMMARY: DISCUSSIONS BETWEEN AEC AND FRG TEAM MARCH 26
AND OBOUSSIER (EURATOM SUPPLY AGENCY) APRIL 3 ON
URANIUM ENRICHMENT SERVICES CRITERIA WERE CONDUCTED IN
FRANK AND FRIENDLY ATMOSPHERE. FRG TEAM ALSO HAD FORMAL
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HEARING BEFORE JCAE MARCH 26; OBOUSSIER MET PRIVATELY WITH JCAE CHAIRMAN AND OTHER MEMBERS APRIL 4. VISITORS WERE GIVEN OPPORTUNITY TO MAKE FULL PRESENTATION OF PROBLEMS AND QUESTIONS POSED BY NEW CRITERIA. AEC'S DETAILED EXPLANATION OF PURPOSES AND MECHANICS OF NEW CRITERIA APPEARS TO HAVE CLEARED UP NUMBER OF MISUNDERSTANDINGS AND PROVIDED SUFFICIENT ASSURANCE OF REASONABLE AND FLEXIBLE APPLICATION OF CRITERIA TO HAVE GONE A LONG WAY TOWARD SATISFYING MAJOR EUROPEAN CONCERNS. BOTH EC AND FRG REPS EXPRESSED HOPE FOR FORMAL CLARIFYING POLICY STATEMENTS BY AEC. END SUMMARY

1. FRG GOVERNMENT AND INDUSTRY TEAM, LED BY SCHMIDT-KUESTER OF FRG TECHNOLOGY MINISTRY, HAD LONG SESSION AND LUNCH WITH AEC STAFF MORNING MARCH 26, FOLLOWED IN AFTERNOON BY FORMAL HEARING BEFORE JCAE. AT BOTH

SESSIONS FRG TEAM WAS GIVEN OPPORTUNITY TO MAKE FULL PRESENTATION OF ITS PRINCIPAL CONCERNS OVER NEW CRITERIA. AEC STAFF GAVE THOROUGH EXPLANATION OF NEW CRITERIA, INCLUDING FOLLOWING POINTS ON WHICH GERMANS APPEAR NOT PREVIOUSLY TO HAVE HAD CLEAR UNDERSTANDING:

A. INITIAL CONTRACT REQUIRES EIGHT- YEAR LEAD TIME IN SPECIFYING A " RANGE" OF SEPARATE WORK UNIT NEEDS, RELATED ONLY TO REACTOR SIZE; EXACT QUANTITIES NEED NOT BE SPECIFIED UNTIL SIX MONTHS AFTER CUSTOMER HAS DETERMINED SPECIFIC TYPE AND DETAILED LOADING SCHEDULE OF REACTOR.

B. MINIMUM RELOAD REQUIRED IN CONTRACT OVER FIRST TEN YEARS WILL BE ONLY TWO TIMES INITIAL CORE LOADING, EVEN THOUGH RELOAD REQUIREMENTS MAY EXCEED THAT AMOUNT. ALTHOUGH DELIVERY DATE FOR INITIAL CORE MUST BE FIRMLY FIXED, DELIVERY DATES OF RELOADS WILL BE FLEXIBLE, I. E. MAY BE EXTENDED ON EQUAL TIME BASIS DEPENDING ON SLIPPAGE IN DATE ON WHICH CONSTRUCTION PERMIT OR ITS EQUIVALENT IS OBTAINED RELATIVE TO ORIGINAL SCHEDULE.

C. IN EVENT CUSTOMER FINDS HE UNABLE TO USE CONTRACTED SERVICES, PRIOR TO OBTAINING CONSTRUCTION PERMIT, HE HAS OPTIONS (1) TO CANCEL, IN WHICH CASE TERMINATION CHARGES WILL BE BASED ON DOWN PAYMENT LIMITED OFFICIAL USE

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ACTUALLY MADE TO AEC AT TIME OF CANCELLATION, (2) TO

ASSIGN HIS CONTRACT TO OTHER INTERESTED AND QUALIFIED CUSTOMER, OR (3) TO RESALE OF UNNEEDED PRODUCT TO OTHER USERS, SUBJECT TO SAFEGUARDS AND OTHER PERTINENT AGREEMENTS.

D. ALTHOUGH FIRM POLICY HAS NOT YET BEEN SET, AEC WILL PROBABLY BE WILLING TO CONTRACT FOR RELOADS OF REACTORS WHOSE INITIAL CORE LOADING CAME FROM ANOTHER SOURCE, BUT STILL SUBJECT TO EIGHT- YEAR LEAD TIME FOR INITIAL DELIVERY, PLUS DELIVERIES FOR MINIMUM OF 10 YEARS AND PROBABLY AN APPROPRIATE DOWN PAYMENT.

2. OBOUSSIER, ACCOMPANIED BY REP OF WASHINGTON EC DELEGATION (HEIDENREICH), HAD SIMILAR SESSION WITH AEC ON APRIL 3 AND INFORMAL MEETING FOLLOWING DAY WITH CHAIRMAN PRICE, HOSSMER AND BAUSER OF JCAE. SINCE OBOUSSIER HAD RECEIVED FULL REPORT OF FRG TEAM DISCUSSIONS, HE DID NOT PURSUE IN DETAIL POINTS COVERED IN PARA ONE ABOVE.

3. EC AND FRG REPS EXPRESSED PARTICULAR CONCERN OVER ABSENCE OF " NON- DISCRIMINATION" LANGUAGE IN NEW CRITERIA. AEC STAFF NOTED THAT QUESTION OF DISCRIMINATION RESULTING FROM THE PROPOSED CHANGE IN CRITERIA WOULD ARISE ONLY IN CONTEXT OF TERMINATION OF AEC CONTRACTS UNDER UNLIKELY CIRCUMSTANCE THAT AEC HAD CONTRACTED BEYOND ITS OWN CAPACITY BEFORE DECISION TAKEN BY US INDUSTRY TO BUILD PRIVATE ENRICHMENT FACILITY. FRG REPS EXPRESSED CONCERN THAT IN THESE CIRCUMSTANCES AEC MIGHT DECIDE TO CANCEL US DOMESTIC CONTRACTS ONLY WHILE RETAINING FOREIGN COMMITMENTS, THUS DENYING EUROPEAN UTILITIES OPPORTUNITY, FREE FROM CUSTOMER- INITIATED TERMINATION CHARGES, TO SEEK NON- US SUPPLIER. FRG REPS EXPRESSED PREFERENCE FOR FORMULA ALONG LINES OF " LAST CONTRACT, FIRST TO BE CANCELLED", BUT THAT IN ANY CASE CLEAR AEC DECLARATION ON THIS POINT WOULD HELP CONSIDERABLY IN DISCUSSIONS WITH INTERESTED PARTIES IN EUROPE. AEC REPS RESPONDED THAT NO CONSIDERATION HAD YET BEEN GIVEN TO THIS POLICY MATTER, BUT THAT IT WOULD ATTEMPT TO DO SO.

4. OBOUSSIER RAISED ADDITIONAL CONCERN OVER POSSIBLE LIMITED OFFICIAL USE

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" DISCRIMINATION" NAMELY, FEAR THAT PRIVATE US ENRICHMENT FACILITY LIKELY TO BE BUILT BY REACTOR FABRICATOR WHO MIGHT THEN DISCRIMINATE IN FAVOR ITS REACTOR CUSTOMERS. AEC POINTED OUT THAT USG LICENSING AND REGULATORY AUTHORITY, ANTI- TRUST LAWS AND DOMESTIC

INDUSTRY CONCERNS WOULD EFFECTIVELY PRECLUDE DISCRIMINATION OF THIS TYPE.

5. OBOUSSIER ALSO NOTED THAT NEW CRITERIA DID NOT APPEAR TO TAKE INTO ACCOUNT CERTAIN SPECIAL EUROPEAN CIRCUMSTANCES. GOVERNMENT- OPERATED OR LARGE UTILITIES WITH NUMBER OF REACTORS PROBABLY COULD ADAPT TO PROPOSED CRITERIA WITH MINIMUM DIFFICULTY, BUT THIS WOULD NOT BE SITUATION WHERE NUMBER OF SMALL UTILITIES COOPERATED TO BUILD ONE OR TWO POWER REACTORS. UNDER LATTER CIRCUMSTANCES INITIAL DECISION MAKING WOULD BE MADE MORE DIFFICULT (PERHAPS RESULTING IN SELECTION OF FOSSIL FUEL PLANTS INSTEAD) AND CUSTOMER WOULD HAVE MUCH LESS FLEXIBILITY FOR ADJUSTMENTS. OBOUSSIER COULD SEE PROBLEMS IN SUCH CASES WITH CRITERIA' S DOWN PAYMENT, TERMINATION AND TIME FRAME PROVISIONS. AEC INDICATED CRITERIA SUFFICIENTLY FLEXIBLE TO MAKE POSSIBLE SPECIFIC CONTRACT ARRANGEMENTS THAT WOULD TAKE THESE PROBLEMS INTO ACCOUNT WITHOUT VIOLATING SPIRIT OR OBJECTIVES OF CRITERIA. OBOUSSIER WAS NOT ENTIRELY SATISFIED THAT ASSURANCES OF FLEXIBILITY ON CASE BY CASE BASIS WOULD MEET EUROPEAN CONCERNS.

6. FRG TEAM SAID THAT ONE OF REASONS FOR ITS CONCERN ABOUT CRITERIA WAS FRENCH PRESSURE FOR DECISION BY EUROPEANS BY 1974 TO SUPPORT CONSTRUCTION OF FRENCH DIFFUSION PROCESS FACILITY, WITH 9,000 TON CAPACITY, AND FOR RELATED DECISION NOT TO HAVE EURATOM SUPPLY AGENCY ENTER INTO ANY LONG TERM CONTRACTS WITH AEC UNDER THE NEW CRITERIA. TEAM SAID GERMAN UTILITIES NOT KEEN ON " SWITCHING" FROM ONE MONOPOLY TO ANOTHER" AND THE EXTENT TO WHICH CRITERIA ARE REGARDED AS UNREASONABLE CONTRIBUTES TO FRENCH OBJECTIVE.

7. IN RESPONSE TO OBOUSSIER QUESTION WHETHER SAMPLE DRAFT CONTRACTS WERE AVAILABLE, AEC STAFF SAID THEY WERE NOW IN PROCESS OF DRAFTING BUT WOULD NOT BE COMPLETED UNTIL CRITERIA FINALLY DECIDED AND ESTABLISHED. THEREAFTER, LIMITED OFFICIAL USE

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DRAFT CONTRACTS WILL BE MADE AVAILABLE FOR COMMENT.

8. OBOUSSIER RAISED RELATED ISSUE OF LEGISLATION PLACING CEILING ON SUPPLY OF ENRICHED URANIUM TO EURATOM. HE SAID CEILING " ANACRONISTIC", DISCRIMINATORY IN THAT SIMILAR CEILINGS NOT IMPOSED BY LEGISLATION ON OTHER FOREIGN CUSTOMERS SUCH AS JAPAN, AND PERHAPS MOST IMPORTANT IS INCONSISTENT WITH NEW CRITERIA' S REQUIREMENT FOR EIGHT YEAR LEAD TIME. HIGHER CEILING CONTAINED IN DRAFT

LEGISLATION NOW BEFORE CONGR SS WOULD COVER REQUIREMENTS FOR REACTORS PERHAPS THROUGH 1978, BUT NEW CRITERIA WOULD REQUIRE FIXED COMMITMENTS FOR FUEL FOR REACTORS GOING ON LINE IN 1981 AND 1982. OBOUSSIER EXPRESSED HOPE THAT FOLLOWING PASSAGE OF NEW CEILING LEGISLATION, AEC WOULD WORK ACTIVELY FOR ELIMINATION OF LEGISLATION CEILING ALTOGETHER. BOTH FRG TEAM AND OBOUSSIER MADE SIMILAR APPEALS TO JCAE, SOME MEMBERS OF WHICH APPEARED SYMPATHETIC. AEC AND DEPARTMENT REPS CONCURRED THAT THIS PROBLEM SHOULD BE ADDRESSED AS EARLY AS FEASIBLE.

9. EC AND FRG REPS EXPRESSED HOPE THAT CONSULTATIONS WITH AEC WOULD RESULT IN FORMAL POLICY STATEMENTS BY AEC PROVIDING CLARIFICATIONS AND ASSURANCES WHICH REPS HAD RECEIVED ORALLY. AEC STAFF SAID IT FULLY EXPECTED TO ISSUE FURTHER CLARIFICATIONS, WHICH MIGHT IN PART BE MADE IN THE CONTEXT OF THE AEC; REPORT TO THE JCAE ON THE RESULTS OF ITS CONSULTATIONS WITH DOMESTIC INDUSTRY AND FOREIGN REPS.

10. COMMENT: FRG TEAM AND OBOUSSIER WERE CLEARLY PLEASED WITH RECEPTION RECEIVED FROM AEC AND JCAE. IMPRESSION WAS LEFT THAT WHILE NOT ALL CONCERNS WERE ANSWERED, CLARIFICATIONS AND INDICATIONS OF FLEXIBILITY IN APPLICATION OF CRITERIA MIGHT BE SUFFICIENT TO MAKE IT POSSIBLE FOR EUROPEAN UTILITIES TO LIVE WITH THEM, PROVIDED REMAINING DIFFERENCES ARE DEALT WITH IN NEGOTIATION OF SPECIFIC CONTRACTS AND IN ISSUANCE OF FURTHER CLARIFYING STATEMENTS BY AEC. ROGERS

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